



SOL:DZW:WS  
(08) 01781

UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF NEW YORK

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ELAINE L. CHAO, Secretary of Labor,  
United States Department of Labor,

Plaintiff,

v.

T.J. CLEMENT CONSTRUCTION CO., INC. A Corporation;  
PAMELA CLEMENT Individually, and as Owner;  
TIMOTHY CLEMENT Individually, and as Owner.

Defendants.  
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: Civil Action

: File No. 08-CV-00463-TJM-GJD

: CONSENT JUDGMENT

Plaintiff, Secretary, has filed her complaint and defendants T.J. CLEMENT CONSTRUCTION CO., INC. PAMELA CLEMENT and TIMOTHY CLEMENT appeared by Counsel, and an agreement was reached by all the parties to resolve all the issues raised in this action. Defendants acknowledge their responsibilities pursuant to this agreement, and acknowledge that they will be subject to sanctions in contempt of this Court if they fail to comply with the provisions of this Judgment. Defendants without admitting or denying the allegations of the Complaint consent to the entry of this Judgment, and it is therefore upon motion of the attorneys for the Secretary and for good cause shown:

I. ORDERED that defendants, their officers, agents, employees, and all persons acting or claiming to act in the defendants' behalf and interest be, and they hereby are, permanently enjoined and restrained from violating the provisions of sections 7, 11(c), 15(a)(2), 15(a)(3) and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. Section 201 *et seq.*), in any manner, specifically including:

(1) Defendants shall pay employees at time and one-half their regular hourly rates for all hours worked over 40 hours per week, and shall not, contrary to Section 7 of the Act, employ any of their employees in any workweeks longer than the hours now, or which in the future become, applicable under Sections 7 and 15(a)(2) of the Act, unless the employees receive compensation for their employment in excess of the prescribed hours at rates not less than one and one-half times the employees' regular rates.

(2) Defendants shall make, keep, and preserve accurate and complete records of their employees' employment and of the wages, hours, and other conditions and practices of employment maintained by them as prescribed by the Regulations issued pursuant to Section 11(c) of the Act and found at 29 CFR Part 516.

(3) Defendants shall not discharge or take any retaliatory action against any employee because the employee engages in any of the following activities:

a. Discloses, or threatens to disclose, to a supervisor or to a public agency, any activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of the Act, or a rule or regulation promulgated pursuant to the Act;

b. Provides information to, or testifies before, any public agency or entity conducting an investigation, hearing or inquiry into any alleged violation of the Act, by the employer or another employer with whom there is a business relationship;

c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of the Act, or a rule regulation promulgated pursuant to the Act; and it is further

II. ORDERED that the defendants be, and hereby are, enjoined and restrained from withholding the payment of overtime compensation due their employees listed in exhibit A in the gross amount of \$34,005.06. Payment of that sum has been made.

Any sums not distributed to the employees or former employees named herein, or to their personal representatives because of inability to locate the proper persons or because of such persons' refusal to accept such sums, shall be deposited with the Clerk of this Court who shall deposit the money with the Treasurer of the United States pursuant to 28 U.S.C. 2041 and 2042; and it is further

II. ORDERED that neither defendants nor anyone on their behalf shall directly or indirectly solicit or accept any sums paid under this Judgment; and it is further


III. ORDERD that the defendants shall advise all their employees in of the employees' rights under the Fair Labor Standards Act, and the terms of the Judgment, including the payment of overtime and the rights of employees to engage in activity protected by the Act without fear of retaliation; and it is further

IV. ORDERED that defendants shall place posters provided by the Wage and Hour Division with information about the FLSA where employees may view them; and it is further

V. ORDERED that neither the commencement of this action nor the provisions of this Consent Judgment shall in any way affect, determine, or prejudice any and all legal rights of any employees or former employees of defendants not listed in Exhibit A to file any action against defendants under Section 16(b) of the Act, or likewise for any current or former employee listed in Exhibit A to file any action against defendants under Section 16(b) of the Act for any violations alleged to have occurred after May 21, 2006 and it is further

VI ORDERED that each party will bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.


SO ORDERED:

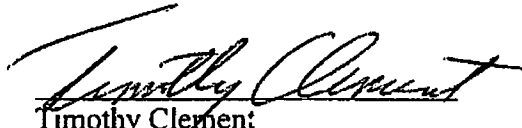
  
HONORABLE THOMAS J. McAVOY  
UNITED STATES DISTRICT JUDGE

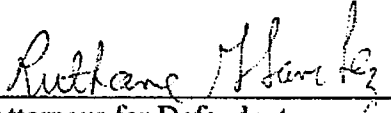
DATE: May 13, 2008  
Syracuse, New York

Defendants have appeared by counsel, and hereby consent to the entry of this Judgment.

By:

  
Pamela Clement

  
Timothy Clement

  
Attorneys for Defendants

CORP.  
SEAL

T.J. CLEMENT CONSTRUCTION CO., INC

BY:

  
PRESIDENT